

<p style="text-align: right;">190</p> <p>1 Q. I just have a couple questions based on what 2 your attorney asked you. 3 Is it your testimony that the bartenders 4 who were hired at the Champagne Bar and the Rose Club 5 when the hotel reopened who had not previously worked 6 at the Plaza Hotel did not know what a Bloody Mary 7 was? 8 A. Bloody Bull. Some drinks that are made 9 differently. 10 Q. But they knew what a Bloody Mary was; right? 11 A. Yes. 12 Q. Is it your testimony they didn't know what a 13 Manhattan was? 14 A. The standard -- the new standard at the 15 Plaza, the new ingredients which are put in, like, 16 bitter into the Manhattan, they made it differently, 17 and it is made with olive from Croatia which are black 18 olives, and have an infusion of alcohol. 19 Q. Am I correct that a classic Manhattan would 20 have bourbon, bitters and Vermouth and a maraschino 21 cherry? 22 A. We use black olives instead of the 23 maraschino. 24 Q. That's what the Plaza uses as a Manhattan? 25 A. Yes.</p>	<p style="text-align: right;">192</p> <p>1 people as bartenders, that supports your 2 discrimination claim. What I want to know is that you 3 were young and inexperienced when they hired you; 4 right? 5 A. Yes. That was a different time and different 6 managers at that time. More professional at that 7 time, more professional than some that have been 8 chosen. 9 Q. In your opinion, what's the most prestigious 10 bar to work at in New York City? 11 A. There's the Oak Bar, there's another one 12 Bellamen's Bar at the Carlyle Hotel. The Plaza has 13 one of the best, the Oak Bar. 14 Q. The Oak Bar? 15 A. Yes. It's prestigious. A lot of pictures, 16 as you can see. It has a mural of a horse's carriage, 17 big mural. It's fancy. 18 MR. McLANE: Thank you. 19 EXAMINATION 20 BY MR. ZAPATA: 21 Q. One last question. 22 When you were hired to work at the Plaza 23 and you were 26, were you hired to work as a front 24 bartender? 25 A. No. I started as a busboy. And from then, I</p>
<p style="text-align: right;">191</p> <p>1 Q. Do you know whether or not the bartenders 2 were the only job title to receive the option of 3 enhanced severance when the hotel closed in 2005? 4 A. No. All of the employees at the hotel. 5 Q. So all the job classifications at the hotel 6 received an option to take severance in lieu of their 7 recall rights; correct? 8 A. Yes, correct. 9 Q. And you testified that your basis for age 10 discrimination is that the bartenders who were hired 11 when the hotel reopened who were not recalled were 12 younger than you. When you were hired in 1988, you 13 were 26 years old; correct? 14 A. Yes. 15 Q. And you were young and inexperienced; 16 correct? 17 A. Yes, but I learned during the training. I 18 started from the bottom. 19 Q. Do you believe that when you were hired in 20 1988 as a 26-year-old at the Plaza, that because of 21 that, somebody else must have been discriminated 22 against who worked there? 23 A. Excuse me? 24 Q. What date are you referring to? You 25 testified that because they hired young, inexperienced</p>	<p style="text-align: right;">193</p> <p>1 escalated getting experience until they transferred me 2 to a higher position with more prestige, more money. 3 Q. How long did it take from the time that you 4 were hired for you to get promoted to the front bar 5 position? 6 A. Four or five years, because all the 7 bartenders were very young, almost of the same age and 8 no one leaves. It's one of the best jobs, more 9 desirable and good location in Manhattan and midtown. 10 Q. What year were you promoted to be a front 11 bartender? 12 A. In '96. 13 Q. So it took about eight years -- 14 MR. McLANE: Object to the form. 15 A. Yes. 16 MR. ZAPATA: No further questions. 17 (Time noted: 4:23 p.m.) 18 19 20 21 22 23 24 25</p>

194

## 1 CERTIFICATION

2  
3  
4 I, MICHELLE GALLO, a Certified Court  
5 Reporter and Notary Public of the State of New Jersey,  
6 do hereby certify that the foregoing witness,  
7 CARLOS RIVERA, was duly sworn on the date indicated,  
8 and that the foregoing is a true and accurate  
9 transcription of my stenographic notes.

10 I further certify that I am not employed  
11 by nor related to any party to this action.  
12  
13  
14



Michelle Gallo

15  
16  
17  
18  
19  
20 MICHELLE GALLO, CCR  
21  
22  
23  
24  
25

195

## 1 JURAT / ERRATA

2 I have read my testimony in the foregoing  
3 transcript and believe it to be true and correct  
4 to the best of my knowledge and belief with  
5 the following changes:

6 PAGE LINE CHANGE

7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

17  
18  
19 WITNESS SIGNATURE DATE

20  
21 Sworn and subscribed to before me this  
22 \_\_\_\_ day of \_\_\_\_\_, 2011.  
23

24 Notary Public of the  
25 State of \_\_\_\_\_



# Exhibit “B”

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

CARLOS RIVERA,

Plaintiff,

-against-

PLAZA ACCESSORY OWNER LP, EL-

AD PROPERTIES NY LLC, CPS

REALTY LP LLC, AND FHR (NY) LLC,

Defendants.

-----X

Civil Action No. 1:10-cv-06661 (WHP)

DEPOSITION of LIAM FLANAGAN, taken pursuant to  
Article 31 of the Civil Practice Law & Rules of  
Testimony, and Subpoena, held at the offices of  
Barrister Reporting Services, Inc., 120 Broadway, New  
York, New York, on March 3, 2011, at 10:13 a.m., before  
a Notary Public of the State of New York.

\*\*\*\*\*

BARRISTER REPORTING SERVICE, INC.

120 Broadway

New York, N.Y. 10271

212-732-8066

Page 1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----X

3 CARLOS RIVERA,  
4 Plaintiff,

5 -against-

6 PLAZA ACCESSORY OWNER LP, EL-  
AD PROPERTIES NY LLC, CPS 1  
7 REALTY LP LLC, AND FHR (NY) LLC,  
8 Defendants.

-----X

9 Civil Action No. 1:10-cv-06661 (WHP)

10  
11  
12  
13  
14  
15 DEPOSITION of LIAM FLANAGAN, taken pursuant to  
16 Article 31 of the Civil Practice Law & Rules of  
17 Testimony, and Subpoena, held at the offices of  
18 Barrister Reporting Services, Inc., 120 Broadway, New  
19 York, New York, on March 3, 2011, at 10:13 a.m., before  
20 a Notary Public of the State of New York.

21 \*\*\*\*\*

22  
23 BARRISTER REPORTING SERVICE, INC.  
24 120 Broadway  
25 New York, N.Y. 10271  
212-732-8066

Page 2

1 APPEARANCES:

2  
3 THE LAW OFFICES OF  
4 FAUSTO E. ZAPATA, JR., P.C.  
Attorneys for Plaintiff  
277 Broadway, Suite 501  
New York, New York 10007  
(212)766-9870

6 BY: FAUSTO E. ZAPATA, ESQ.

8 LITTLER MENDELSON, P.C.  
Attorneys for Defendants  
One Newark Center, 8th Floor  
Newark, New Jersey 07102  
(973)848-4700

10 BY: WILLIAM P. McLANE, ESQ.

11 ALSO PRESENT:

12 Carlos Rivera,  
13 Plaintiff

Page 3

1 STIPULATIONS

2  
3 IT IS HEREBY STIPULATED AND AGREED by and  
4 between the attorneys for the respective parties  
5 herein, that filing, sealing and certification,  
6 and the same are, hereby waived.

7  
8 IT IS FURTHER STIPULATED AND AGREED that all  
9 objections except as to the form of the question,  
10 shall be reserved to the time of the trial.

11  
12 IT IS FURTHER STIPULATED AND AGREED that the  
13 within deposition may be signed and sworn to by an  
14 officer authorized to administer an oath, with the  
15 same force and effect as if signed and sworn to  
16 before the Court.

20 Xxxxx

Page 4

1 L. FLANAGAN

2 L I A M F L A N A G A N,

3 Having first been duly sworn by a Notary  
4 Public of the State of New York, was  
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. ZAPATA:

8 Q Please state and spell your name for the  
9 record.

10 A Liam Flanagan. L-I-A-M.

11 F-L-A-N-A-G-A-N.

12 Q What is your address?

13 A It's 31-65 29th Street, Apartment B1,  
14 Astoria, New York 11106.

15 Q Mr. Flanagan, good morning. Are you  
16 currently employed?

17 A Yes.

18 Q Where are you employed?

19 A Plaza Hotel.

20 Q How long have you been employed at the  
21 Plaza Hotel?

22 A Since October 1988.

23 Q Where is the Plaza located?

24 A It's on 59th Street and Fifth Avenue.  
25

Page 5

L. FLANAGAN

1  
2 Q When you were hired in October 1988,  
3 what position were you hired to work for?  
4 A I was hired originally as a bar-back.  
5 Q Can you please describe the duties of a  
6 bar-back?  
7 A Bar-back basically is there to help the  
8 bartenders set up, get them supplies -- ice,  
9 liquor, juices -- stuff like that.  
10 Q And when -- did your title ever change  
11 from a bar-back?  
12 A Yeah. After -- after about six months.  
13 Q And it changed to what?  
14 A Service bartender.  
15 Q Can you please describe the duties of a  
16 service bartender?  
17 A Service bartender is basically somebody  
18 who is at the back of the house, just there  
19 for waiters who bring drinks to the guests in  
20 the room.  
21 Q You say back of the house, what does  
22 that mean?  
23 A That means you don't have any  
24 interaction with the hotel guests. Like it's  
25 in the kitchen, the bar is situated, and then

Page 6

L. FLANAGAN

1  
2 the waiters come to you to get drinks for the  
3 people in the room.  
4 Q And do you receive tips for that  
5 position?  
6 A No.  
7 Q How long did you work as a service  
8 bartender?  
9 A Roughly about eighteen months.  
10 Q And then did your title change?  
11 A Yeah. I went to work in the front bar.  
12 Q Can you please describe the duties --  
13 let me withdraw that.  
14 You went to work at the front bar in  
15 what capacity?  
16 A A -- to begin with it was vacation  
17 relief, when the senior bartenders would go on  
18 vacation you would replace them, especially in  
19 the summertime, and then if somebody retires  
20 you would go permanently to the front bar.  
21 Q And did that happen in your case, did  
22 somebody retire?  
23 A Yes. I believe two guys retired.  
24 Q And then what happened after they were  
25 retired?

Page 7

L. FLANAGAN

1  
2 A After they retired, then the senior  
3 service bartender gets that position in the  
4 front bar.  
5 Q Did you ever -- from service bartender  
6 you became the front bartender vacation  
7 relief?  
8 A Yes.  
9 Q And how long did you work in that  
10 capacity?  
11 A As vacation relief?  
12 Q Yes, sir.  
13 A It would be about a year, I would say.  
14 Q And then did your title change?  
15 A Yeah, when I became permanently, I  
16 became a front bartender.  
17 Q Can you please describe the duties of a  
18 front bartender?  
19 A Front bartender is there to -- guests  
20 from the street or hotel guests who come to  
21 the bar, they want to have a drink, have a  
22 chat, watch the TV and just be, every day.  
23 Q Can you compare the duties of a front  
24 bartender to that of a service bartender?  
25 A Just two basic differences, that the

Page 8

L. FLANAGAN

1  
2 front bartender, you're interacting with  
3 people, with guests, and plus you're making  
4 tips. Service bartender, you don't make any  
5 tips, so it's a difference in salary, more or  
6 less.  
7 Q Is there any difference in status?  
8 A No -- a bartender is a bartender.  
9 Status is just that I suppose the difference  
10 is your income. It is a status difference  
11 because if you're a front bartender it's  
12 part -- a better position than the service  
13 bar.  
14 Q It's considered a better position?  
15 A Yeah.  
16 Q By who?  
17 A Everybody -- hotel management,  
18 bartenders -- anybody who works in the  
19 industry would say that to you.  
20 Q Now, you stated that you worked as --  
21 you started working as a front bartender --  
22 permanent front bartender -- actually, I  
23 didn't get the date. When did you start  
24 working as a permanent front bartender, if you  
25 can ballpark it?



Page 9

L. FLANAGAN

A I would say if I was there '88, probably -- probably '92, permanent.

Q Now, how many front bars -- let me withdraw that.

Can you please tell us what bars existed at the Plaza prior to 2005 -- withdrawn.

Can you please tell us the names of the bars that existed at the Plaza Hotel in 1992?

A Okay. We had the Oak Bar, Oyster Bar -- you want all front bars or every --

Q Give me the front bars.

A Okay. Front bars would have been the Oak Bar and the Oyster Bar and -- yeah, that would be it.

Q Were there any other types of bars?

A Yeah. We had a room service bar, Palm Court which would have been considered a service bar as well. And we had the Edwardian Room.

Q So two service bars in 1992?

A Two would have been the Palm Court and room service.

Q And did there -- after 1992 -- let's say in 2005, how many -- can you please tell us

Page 10

L. FLANAGAN

the service bars that existed at the Plaza?

A At the time would have been the Palm Court and the service bar.

Q And how about -

A Just to -- sorry -- I don't know if it's relevant but we had the Edwardian Room as well, and it was a front bar but it was, like, for guests who are waiting for a table, but they wouldn't buy drinks at the bar, they would pay for them when they went to the table -- I don't know if you would consider it a front bar or service bar.

Q Were there tips associated with working at the Edwardian Room?

A No.

Q When you worked -- I guess during your tenure at the Plaza, have you ever been subjected to any kind of performance evaluations?

A No.

Q Have you ever been disciplined?

A No. I mean, I've been talked to like in instances with managers if something, like, happened with a guest, but never with human

Page 11

L. FLANAGAN

resources and written up or anything like that.

Q But you have been spoken to by managers --

A Yeah.

Q -- corrective, minor stuff?

A Yeah. Yeah.

Q Do you know who Carlos Rivera is?

A Yes.

Q Can you tell us who he is?

A (Indicating). He worked with me. He came into the hotel after me, started off as a bar-back. Probably followed the same pattern as me, was a service bartender and became front bartender.

Q How long have you known Carlos?

A Sixteen, seventeen years, I would say.

Q Can you please describe the circumstances -- withdrawn.

Now, when you worked as a service bartender, what bar did you work at?

A Room service.

Q When you worked as a front bartender vacation relief, where did you work?

Page 12

L. FLANAGAN

A It was a combination, I worked in the Oak Bar and the Oyster Bar.

Q And between 1992 and 2005, where did you work as a front bartender?

A My permanent position ended up being in the Oyster Bar.

Q Have you ever worked with Carlos --

A Yes.

Q -- same bar?

A Yes.

Q When?

A Carlos -- like when I became a front bartender in the Oyster Bar, when the other guys would go on vacation, he would fill in and work with me.

Q Can you give us a ballpark like what timeframe?

A The year? I would say probably '98, maybe.

Q Do you know -- do you know what positions Carlos has held during his employment at the Plaza Hotel?

A Yes.

Q Can you please tell us?



Page 13

1 L. FLANAGAN  
 2 A He was a service bartender, then he did  
 3 vacation relief, and he ended up as a  
 4 permanent Oak Bar bartender.  
 5 Q Do you know when he became a permanent  
 6 Oak Bar bartender?  
 7 A I couldn't give you the date. I would  
 8 say -- I couldn't tell you really an exact  
 9 date.  
 10 Q Okay. Do you know if he was a permanent  
 11 Oak Bar front bartender in 2005?  
 12 A Yes.  
 13 Q How about in 2004?  
 14 A Yes.  
 15 Q 2003?  
 16 A Yes. I would say he was at least there  
 17 four or five years.  
 18 Q Four or five years --  
 19 A Oak Bar.  
 20 Q When you say four or five years, can you  
 21 just tell us timeframe -- do you mean from  
 22 2005?  
 23 A Yeah, going backwards. Yeah, because we  
 24 closed in 2005, so I would say 2000 -- could  
 25 be even earlier.

Page 14

1 L. FLANAGAN  
 2 Q 2000, possibly 2001?  
 3 A Yes.  
 4 Q Do you know who was working at the  
 5 Oyster Bar as a front bartender in early 2005?  
 6 A Early 2005, it would have been me and  
 7 Chuck Litterhouse, and Paul Ing would have  
 8 been another guy, and there's -- there's a  
 9 Chinese guy, Freddie, I forget his last name.  
 10 Q That's it?  
 11 A That would be it.  
 12 Q Chuck Litterhouse, can you describe what  
 13 he looks like?  
 14 A Yeah. I mean, he's white, American guy,  
 15 curly hair, mustache -- he looks a little bit  
 16 like Tom Selleck, actually.  
 17 MR. McLANE: Lucky him.  
 18 Q About -- do you know how old he was in  
 19 2005, roughly?  
 20 A Yeah. If I'm forty-four, he was  
 21 probably thirty-nine, forty.  
 22 MR. McLANE: That was 2005,  
 23 right?  
 24 Q As of 2005, correct?  
 25 A Yes.

Page 15

1 L. FLANAGAN  
 2 Q Paul Ing, do you know -- can you please  
 3 describe what he looks like?  
 4 A He's a small Asian looking guy, about  
 5 five-five.  
 6 Q And in 2005, can you approximate how old  
 7 he was?  
 8 A Yeah. He was about sixty-five because  
 9 he retired after, you know, when the hotel  
 10 closed.  
 11 Q Freddie, do you know -- can you describe  
 12 what Freddie looked like?  
 13 A Yeah. Freddie would basically -- I want  
 14 to say he looks the same, but he was about  
 15 sixty-six, Chinese, five-foot-five, probably  
 16 smaller than me.  
 17 Q Do you know how old he was?  
 18 A Yeah. About sixty-six, sixty-seven. He  
 19 he retired as well. He was getting ready to  
 20 retire anyway.  
 21 Q And how old are you today?  
 22 A I'm forty-four.  
 23 Q And how about the Oak Bar, were you  
 24 familiar with the front bartenders that worked  
 25 at the Oak Bark in 2005?

Page 16

1 L. FLANAGAN  
 2 A 2005, yeah. Because there was Jose  
 3 Arbonna, Orlando Rivera, Carlos would be  
 4 another one.  
 5 Q Carlos Rivera?  
 6 A Yes.  
 7 MR. McLANE: Who was the first  
 8 guy?  
 9 MR. ZAPATA: Jose.  
 10 THE WITNESS: Arbonna.  
 11 MR. ZAPATA: Arbonna.  
 12 A Those three I remember. And there was a  
 13 Jose Jimenez but he was a bar-back.  
 14 Q I'm going to show you this document that  
 15 I would like to have marked for identification  
 16 as Exhibit 1 (handing).  
 17 (Whereupon, the bartender and  
 18 bar-back schedule for the Plaza was  
 19 marked as Plaintiff's Exhibit 1 for  
 20 Identification.)  
 21 Q Do you recognize the document that I've  
 22 just given you that's just been identified as  
 23 P1 for the record?  
 24 A Yes. It's the bartender and bar-back  
 25 schedule for the Plaza.

Page 17

1 L. FLANAGAN  
 2 Q Okay. Now, in -- the Oak Bar has some  
 3 names there.  
 4 A Yes.  
 5 Q Rubin?  
 6 A Rubin Smith.  
 7 Q Do you know who Rubin is?  
 8 A Yes.  
 9 Q Who is Rubin?  
 10 A Rubin -- he would have been the senior  
 11 bartender in the Oak Bar.  
 12 Q And Jose M, do you know who that is?  
 13 A Yes. Jose Mahia, yes.  
 14 Q Sammie?  
 15 A Yes, Sammie.  
 16 Q Do you know who Sammie is?  
 17 A Yes. Sammie retired.  
 18 Q Do you know who Victor is?  
 19 A Yes.  
 20 Q Who's Victor?  
 21 A Victor is a bartender. He used to be a  
 22 backup bartender so he's in the Oak Bar as  
 23 well.  
 24 Q Now, Jose Arbonna, can you describe what  
 25 he looks like?

Page 18

1 L. FLANAGAN  
 2 A Yeah. He's about my height, my age.  
 3 Q How tall are you?  
 4 A Five-seven, so he would be my height.  
 5 Tight haircut, Spanish.  
 6 Q Hispanic?  
 7 A Yeah.  
 8 Q Do you know what color his skin is, if  
 9 you had to describe it?  
 10 A It would be light, very light, close to  
 11 mine.  
 12 Q What color is your skin?  
 13 A White.  
 14 Q And Orlando Rivera, can you describe  
 15 what he looks like?  
 16 A Orlando is Spanish -- Puerto Rican,  
 17 actually. Black hair, mustache.  
 18 Q Do you know about how old he is?  
 19 A He would be in his -- now he would be  
 20 late fifties.  
 21 Q As of today?  
 22 A Yeah.  
 23 Q Do you know -- can you describe the  
 24 color of his skin?  
 25 A Yeah. It's light brown.

Page 19

1 L. FLANAGAN  
 2 Q Light brown. Rubin Smith, can you  
 3 describe what he looks like?  
 4 A Yeah. He's -- he's from Saint Thomas,  
 5 he's very dark skin, about five-nine.  
 6 Q Is he African American or of African  
 7 descent?  
 8 A He would be -- I mean, Saint Thomas --  
 9 he would be African American if you saw him,  
 10 you know, but he's from Saint Thomas --  
 11 Q But he's of African descent?  
 12 A Yeah, yeah.  
 13 Q About how old is he?  
 14 A Today he would be about sixty-eight, I  
 15 would say. Maybe seventy.  
 16 Q Jose Mahia?  
 17 A Jose Mahia, yeah. He's from Honduras,  
 18 Spanish guy, light brown skin.  
 19 Q About how old was he in 2005, if you had  
 20 to ballpark it?  
 21 A He would have been about forty-four,  
 22 forty-five.  
 23 Q Sammie, can you please describe what he  
 24 looks like?  
 25 A Thai, from Thailand, small, about

Page 20

1 L. FLANAGAN  
 2 five-two, gray hair. He was in his sixties as  
 3 well because he retired right around the time  
 4 it closed.  
 5 Q And Victor?  
 6 A Victor is a Filipino guy, black hair,  
 7 dark skin, he's about five-two, smaller.  
 8 Q Age?  
 9 A Victor would be in his mid-forties as  
 10 well, I would say.  
 11 Q Now, looking at the Oyster Bar, it says,  
 12 Felipe?  
 13 A Yes.  
 14 Q Who is Felipe?  
 15 A Felipe Pagani is -- the way -- if you  
 16 look at the schedule the way it looks, it  
 17 goes -- see the names, it goes by the senior  
 18 guys is the top guys and then it goes down  
 19 from there. Felipe would have been the senior  
 20 bartender in the Oyster Bar. He's Puerto  
 21 Rican. He retired as well. He was in his  
 22 sixties back then. Kind of bald.  
 23 Q Who color was his skin?  
 24 A Kind of sallow -- kind of brown, light  
 25 brown.

Page 21

1 L. FLANAGAN  
 2 Q Leo?  
 3 A Leo Angelias was a bar-back, so -- he  
 4 was Dominican Republican, I think, or Puerto  
 5 Rican. Brown skin. Light brown skin.  
 6 Q Age?  
 7 A Leo would be fifty, I would say.  
 8 Q How about -- it says Yvenel?  
 9 A Yvenel, yeah. He's black. He's a  
 10 Haitian -- Haitian guy. Dark skin.  
 11 Q How old?  
 12 A He'd be close to forty-eight, fifty as  
 13 well.  
 14 Q Forty-eight, fifty today or --  
 15 A Today, yeah.  
 16 Q Julio?  
 17 A Julio Montas, yeah. He was a bar-back  
 18 as well. He's from Dominican Republic. He's  
 19 tall, about six-foot-two, I would say, black  
 20 hair, mid-forties as well -- probably fifty  
 21 now.  
 22 Q What country?  
 23 A Dominican Republic.  
 24 Q Wahid?  
 25 A Wahid is an Indian guy, dark brown skin,

Page 22

1 L. FLANAGAN  
 2 about my height. He'd be probably fifty  
 3 today. From Guyana, actually.  
 4 Q Now, looking at the list where it says  
 5 Oyster Bar on the document that's been  
 6 identified as P1, can you tell us on the list  
 7 under Oyster Bar which of those individuals  
 8 are front bartenders?  
 9 A Felipe, myself, Yvenel, Paul, Wahid.  
 10 Q Looking at the Oak Bar list in the  
 11 document that's been identified for the record  
 12 as P1, can you identify individuals that are  
 13 front bartenders on that list?  
 14 A All of them. You want me to name them  
 15 all?  
 16 Q If all of them, you've identified them.  
 17 And just to be clear, you stated that this  
 18 document was a schedule?  
 19 A Yes.  
 20 Q Do you know when the schedule was in  
 21 effect, approximately?  
 22 A March 2005.  
 23 Q Now, you testified a little while ago  
 24 that the hotel closed -- when did the hotel  
 25 close?

Page 23

1 L. FLANAGAN  
 2 A April two oh five.  
 3 Q Do you know why it closed?  
 4 A Yes. It was somebody bought the  
 5 property and they were converting half of it  
 6 to condominiums, so there had to be, you know,  
 7 construction work.  
 8 Q At the time that the hotel closed, were  
 9 you told anything with respect to your job?  
 10 A Yes. We had an option. We could have  
 11 took the -- we had two types of severance pay.  
 12 If you took two weeks severance pay you had no  
 13 recall rights, and if you took one weeks  
 14 severance pay you had recall rights to your  
 15 job. That's one week for every year you  
 16 worked.  
 17 Q What option did you select?  
 18 A I took the one week recall rights.  
 19 Q What did you understand that to mean,  
 20 recall rights?  
 21 A Recall rights is -- basically it goes on  
 22 seniority, and when you go back to work  
 23 whoever is the senior guy, you know, you get  
 24 to pick whatever front bar you want to work  
 25 first.

Page 24

1 L. FLANAGAN  
 2 Q And how did you learn about the recall  
 3 rights?  
 4 A Well, we had -- you know, we had -- the  
 5 union would come in and we'd -- they'd set up  
 6 meetings and tell us how things would  
 7 progress, and then when we closed down, on a  
 8 yearly basis they would, you know, call a meet  
 9 and say this is what's going on right now, and  
 10 they'd call us and say you're going to be  
 11 called back on such a date to work.  
 12 Q Did anybody from the Plaza tell you that  
 13 you had recall rights?  
 14 A Management-wise?  
 15 Q Yes.  
 16 A Yes. I got a call from Rajan Lai.  
 17 Q Can you spell that, if you know?  
 18 A R-A-J-A-N, and Lai is L-A-I -- roughly.  
 19 And he would have been the human resources  
 20 director of the Plaza.  
 21 Q So you received a call from the human  
 22 resources director when?  
 23 A I think that would have been in  
 24 February two oh eight.  
 25 Q And what did he say to you regarding

Page 25

1 L. FLANAGAN  
 2 recall rights?  
 3 A Basically he left a message on my phone  
 4 and said you only took one weeks severance  
 5 pay, we're giving you notification if you want  
 6 to come back to work, let us know, call me  
 7 back at this number.  
 8 Q Did you speak to him?  
 9 A No.  
 10 Q What did you do in response to receiving  
 11 that message?  
 12 A Well, I called human resources, and I  
 13 got some Martus (phonetic) lady on the phone,  
 14 and I told her that I was coming back and they  
 15 sent out a letter then.  
 16 Q And did you come back?  
 17 A I did.  
 18 Q Now, during your tenure with the Plaza  
 19 beginning on 1992 when you became a front  
 20 bartender, did you receive any training from  
 21 the Plaza Hotel?  
 22 A No.  
 23 Q Were you given any materials to review  
 24 to help you --  
 25 A No.

Page 26

1 L. FLANAGAN  
 2 Q -- do your job?  
 3 A No. Basically how it works is that you  
 4 were a service bartender and you went up to  
 5 the front bar, the experienced guy up there  
 6 would just show you the way. You knew the  
 7 drinks already anyway, but he'd -- you know,  
 8 he would show you the outfit, how -- where  
 9 things are, and that was how it was done.  
 10 Q So after you became a front bartender  
 11 you received no training from the Plaza Hotel?  
 12 A No.  
 13 Q During your tenure at the Plaza prior to  
 14 2005, did you ever have occasion to observe  
 15 Carlos Rivera while he was working?  
 16 A Yes.  
 17 Q Can you characterize how often?  
 18 A I mean, worked alongside me or just --  
 19 Q Just observed?  
 20 A Observed -- few days a week for years.  
 21 Q And just to be clear, you observed --  
 22 observed him working as a front bartender --  
 23 A Yes.  
 24 Q -- a few days a week for years?  
 25 A Yes. Well, what would happen is back

Page 27

1 L. FLANAGAN  
 2 then the hotel, they owned all the good bars,  
 3 all the outlets so --  
 4 Q Just to be clear, when you say back  
 5 then, what are you referring to?  
 6 A Two oh five, before we closed down. So  
 7 what would happened is if I ran out of a  
 8 bottle of vodka, I could go to Carlos in the  
 9 Oak Bar and get a -- borrow one from him, you  
 10 know, or vice versa, so I would see him.  
 11 Q And how many times -- I mean, could you  
 12 please characterize how often you would work  
 13 side by side with Carlos?  
 14 A Side by side, me and Carlos, we would  
 15 work together over -- for weeks over summers,  
 16 you know, when he would come up and do  
 17 vacation relief.  
 18 Q So it's fair to say you had the  
 19 opportunity to observe him perform his job  
 20 duties?  
 21 A Yes.  
 22 Q What, if anything, did you observe about  
 23 how Carlos Rivera performed his job duties as  
 24 a front bartender at the Plaza prior to 2005?  
 25 A I enjoyed working with Carlos. He's

Page 28

1 L. FLANAGAN  
 2 very good with customers. You know, he would  
 3 be better like -- say, when it's busy, I would  
 4 take the service end, he would be more  
 5 engaging with the customers than me. So yeah,  
 6 he did his duties, but it's a fairly simple  
 7 job.  
 8 Q To you. How would you describe Carlos  
 9 Rivera's interaction with customers at the  
 10 bar -- at the front bar when you worked with  
 11 him prior to 2005?  
 12 A He's good. People like him. He's very  
 13 engaging.  
 14 Q All right. Let's talk about when you  
 15 came back to the hotel after being recalled.  
 16 Just to be clear, when did you return to the  
 17 hotel after being recalled?  
 18 A I think it was -- it was either  
 19 February 11th or February 14th.  
 20 Q Just to be clear, when I say the hotel,  
 21 I'm referring to Plaza Hotel.  
 22 A The Plaza.  
 23 Q When you came back to the hotel in  
 24 February 2008, can you please tell us --  
 25 describe to us your first day of work?



Page 29

L. FLANAGAN

A Well, what happened because I was the senior bartender I was called back a week before these other bartenders. So they called back the Palm Court crew first because they were going to try to open that restaurant first. So the first day we did orientation, and then we worked for a week, and then they brought in the rest of the crew for the Champagne Bar and the Rose Club.

Q Okay. When you returned to work that first week, did you see Carlos Rivera?

A No.

Q Were there any front bartenders that had worked at the Plaza in 2005 that you saw your first week back in February 2008?

A No. I was the only bartender inhouse that day.

Q Can you please describe the training that you received, orientation?

A Well, basically what happened for us when we -- when the first week back or the whole process for the three weeks of training?

Q Let's do the first -- let's do the three weeks.

Page 30

L. FLANAGAN

A Basically the bars weren't constructed yet to train behind, so what we did basically for three weeks as bartenders, we -- to keep us occupied we trained as servers, including the bartenders.

Q Just to be clear, when you say we trained, who are you referring to?

A Well, I would say talking -- would be me, Carlos, Evelio Tejada, and the new hires as I would call them.

Q So the new hires, in addition to Evelio Tejada, Carlos Rivera, and yourself -- you were trained servers; is that what you're saying?

A Yes.

Q Okay. What else?

A Yeah. And then from my -- my own instance was that the manager told me that I was going to be working in the Palm Court as a service bartender.

Q Just to be clear, when the hotel -- the Plaza Hotel reopened in February of 2008, can you please state for the record the names of the front bars?

Page 31

L. FLANAGAN

A The front bar would have been the Rose Club and the Champagne Bar.

Q And the service bars?

A Service bar would have been the Palm Court.

Q So you --

A Sorry. The Oak Bar is still there but it's not part of the hotel -- a private company owns it now.

Q So it's no longer on part of the Plaza Hotel?

A Yeah.

Q Now, you testified just now that you learned after being recalled in February 2008 that you were going to be assigned to work at the Palm Court?

A Yes.

Q And what position would you hold -- let me withdraw that.

In what capacity were you told you were going to be working at the Palm Court?

A Well, when I went there and then these other guys were recalled to work and some of my old colleagues servers were training in the

Page 32

L. FLANAGAN

Champagne Bar and the Rose Club, I questioned it, I said, you know, I'm supposed to be a front bartender, I've been a front bartender for years. So the manager at the time, Bjorn, who is the manager of Palm Court, he said he would go to human resources and find out --

Q Let's back up. I'm -- I guess what I want to know is, you were told that you were going to be working at the Palm Court by the Plaza Hotel, correct?

MR. McLANE: Objection to form.

You can answer.

A Yes.

Q Who told you, you were going to be working at the Palm Court?

A Anthony Evangelista.

Q And who is he?

A He was the manager of the Rose Club and Champagne Bar.

Q And what position were you told that you would be working in at the Palm Court?

A Palm Court is service bartender.

Q So you would be working as a service bartender?

Page 33

L. FLANAGAN

- 1  
2 A Yes.  
3 Q And was that acceptable to you?  
4 A No.  
5 Q Why not?  
6 A Because I'm a front bartender. I've  
7 been a front bartender for years, and I was  
8 told, you know, by the union and at the hotel  
9 before we left that I would be a -- when I  
10 came back I would be a front bartender.  
11 Q You said you were told by the hotel  
12 before you left --  
13 MR. McLANE: And the union, he  
14 said.  
15 A And the union.  
16 Q You were told by the hotel before you  
17 left -- and when you say before you left, what  
18 timeframe are you talking about?  
19 A Well, if we closed down in April two oh  
20 five, it was sometime in April.  
21 Q In April 2005, you were told by the  
22 hotel that you would return as a front  
23 bartender?  
24 A Yeah.  
25 Q Who told you from the hotel, if you

Page 34

L. FLANAGAN

- 1 remember?  
2  
3 A I can't remember his name. Could have  
4 been Tom Norberg if he was there. He was the  
5 manager. Tom Norberg, N-O-R-B-E-R-G. I think  
6 it was him.  
7 Q Do you know what position he held?  
8 A He would have been the beverage manager.  
9 Q So after you learned that your employer  
10 was assigning you to work at the Palm Court as  
11 a service bartender, did you do anything?  
12 A Yes. I told the manager in the Palm  
13 Court about --  
14 Q Which manager?  
15 A Bjorn is his name. I don't know his  
16 last name.  
17 Q Bjorn?  
18 A Yeah.  
19 Q Okay. Continue.  
20 A And I told him the situation, he said  
21 he'd go down to --  
22 Q When you say told him the situation, can  
23 you just please for the record state what --  
24 A I explained to him about seniority  
25 rights -- front bartender, service bartender.

Page 35

L. FLANAGAN

- 1  
2 Q Tell us everything you said.  
3 A Okay. I said to him basically that I  
4 worked in the hotel so long, I'm a front  
5 bartender here, I'm seniority, I'm supposed to  
6 be working the front bar. And he said -- he  
7 told me, I'll go to human resources and I'll  
8 find out, I'll ask. So he went down and he --  
9 he asked Rajan Lai, and Rajan said if it's  
10 correct what I say, I will be working the  
11 front bar.  
12 Q Anything happen after that?  
13 A Yeah. I went down to see Rajan myself,  
14 and he said, yes, you're entitled to work the  
15 front bar.  
16 Q When did you meet with Mr. Lai?  
17 A The day I told Bjorn, which would be  
18 back in the hotel about a week then, I told  
19 Bjorn, and he said, yes, he's going to look  
20 into it, and if the facts are correct, you  
21 will be put behind the front bar.  
22 Q And then you spoke to Mr. Lai at some  
23 point after that?  
24 A Yes.  
25 Q Shortly thereafter?

Page 36

L. FLANAGAN

- 1  
2 A Yeah. Probably the next day.  
3 Q And how did you end up speaking to him?  
4 A I just went -- you know, it's an open  
5 door policy, human resources --  
6 Q You went to human resources?  
7 A Yes.  
8 Q And just to be clear, what -- at that  
9 time when you went to go speak to Mr. Lai in  
10 February 2008, what position did Mr. Lai hold?  
11 A He was human resources director.  
12 Q Okay. Now, when you went to go speak to  
13 Mr. Lai, what did you say to him?  
14 A I told him exactly what I told Bjorn  
15 about seniority, about working for the hotel  
16 for so long in the front bar.  
17 Q What did you tell him about seniority?  
18 A I told him that, you know, the policy is  
19 that if you have seniority, especially when  
20 you're number one at seniority, you get to  
21 pick which bar you work in and your schedule,  
22 more or less, what days off you have.  
23 Q Did you tell him anything else?  
24 A Yeah. Basically I told him, you know,  
25 this is the situation, and he said, you're

Page 37

1 L. FLANAGAN  
 2 right, you're correct, I just have to look at  
 3 your file and get back to you later on in the  
 4 afternoon, and he did, and he came up and he  
 5 said, yeah, a couple days time you'll work in  
 6 the Rose Club, Champagne Bar -- or train, we  
 7 weren't opened yet.  
 8 Q So when the hotel -- I guess, the --  
 9 when the Rose Club opened up for the first day  
 10 when it opened up to the public, were you  
 11 working there?  
 12 A Yes. What happened first is the  
 13 Champagne Bar opened the first of March,  
 14 actually, two oh eight, the Rose Club didn't  
 15 open for another month after that. So the  
 16 bartenders, we kind of worked in the Champagne  
 17 Bar and on the floor for that time.  
 18 MR. McLANE: I'm sorry, when did  
 19 you say Rose Bar opened?  
 20 THE WITNESS: April.  
 21 Q I want to show you this document that I  
 22 would like to have it marked for  
 23 identification as P2.  
 24 (Whereupon, a the Rose Club and  
 25 Champagne Bar schedule was marked as

Page 38

1 L. FLANAGAN  
 2 Plaintiff's Exhibit 2 for  
 3 Identification.)  
 4 Q Please review the document that I've  
 5 just given you. It's been identified for the  
 6 record as P2. After you finish reviewing that  
 7 document, please look up at me. Do you  
 8 recognize the document I've just given you?  
 9 A Yes.  
 10 Q What do you recognize this to be?  
 11 A It's the Rose Club and Champagne Bar  
 12 schedule.  
 13 Q How do you recognize it?  
 14 A I can tell by the names, and it states  
 15 Rose Club, Champagne Bar.  
 16 Q Do you know who Robert Kenyon is?  
 17 A Yes.  
 18 Q Can you tell us who he is?  
 19 A He's a former bartender in the Rose  
 20 Club, Champagne Bar.  
 21 Q Can you please describe what he looked  
 22 like?  
 23 A He was a white American, about six-foot,  
 24 twenty-six years of age.  
 25 Q You state he no longer works at the

Page 39

1 L. FLANAGAN  
 2 Plaza Hotel?  
 3 A Yes.  
 4 Q Do you know why he no longer works  
 5 there?  
 6 A Yeah. I mean, he was having issues with  
 7 the beverage -- the food and beverage  
 8 director, and you know, it was coming to a  
 9 head so he resigned.  
 10 Q Do you know when he started working at  
 11 the Plaza Hotel?  
 12 A February.  
 13 Q February of what year?  
 14 A Two oh eight.  
 15 Q Do you know where he worked?  
 16 A Rose Club, Champagne Bar.  
 17 Q Did you ever have occasion to speak to  
 18 Mr. Kenyon?  
 19 A Yes.  
 20 Q Did you ever learn as to what his prior  
 21 experience was working as a bartender?  
 22 A Yeah. He worked in a place called Gin  
 23 Lane which was -- Anthony Evangelista was one  
 24 of the owners. That would have been our --  
 25 the manager of Rose Club and Champagne Bar, so

Page 40

1 L. FLANAGAN  
 2 that closed down, a receivership, so when  
 3 Anthony came back to the Fairmont -- to the  
 4 Plaza, he gave Rob a job.  
 5 Q Do you know how long he had been the  
 6 bartender?  
 7 A No, I can't tell.  
 8 Q Did you have -- ever have an opportunity  
 9 to observe him work?  
 10 A Yes.  
 11 Q Can you please describe what you  
 12 observed about the way in which he worked?  
 13 A He was a good bartender, he was  
 14 knowledgeable, efficient, nice to the  
 15 customers.  
 16 Q You say that he had problems at work?  
 17 A Yeah. There was -- there was -- I  
 18 think it was more of a personality thing than  
 19 any issues, and this guy, he was late a few  
 20 times, he was written up, and -- it just was  
 21 wasn't going to well for him in there, you  
 22 know, the -- so he was going to try something  
 23 else.  
 24 Q So he got written up for being late?  
 25 A Yeah.



Page 41

1 L. FLANAGAN  
 2 Q Do you know if he had any other  
 3 disciplinary problems?  
 4 A Yeah. I think his girlfriend was in  
 5 there one day at the bar, you know, and the  
 6 manager observed it. You know, she was having  
 7 a drink at the bar, talking to him -- so he  
 8 got written up for that as well.  
 9 Q Was he accused of anything?  
 10 A He was accused of giving a free drink.  
 11 Q How about Prather Remm?  
 12 A Prather Remm, yeah.  
 13 Q Do you know who Prather Remm is?  
 14 A Yes.  
 15 Q Can you please tell us who?  
 16 A She was a -- a bit of history behind  
 17 her. She's the first female bartender ever in  
 18 the Plaza Hotel. And she was what you call a  
 19 new hire as well.  
 20 Q Do you know about how old she was,  
 21 approximately?  
 22 A She was twenty-nine, thirty.  
 23 Q Do you know what color skin she had?  
 24 A White.  
 25 Q Did you ever have -- withdrawn.

Page 42

1 L. FLANAGAN  
 2 Do you know if she still works at the  
 3 Plaza Hotel?  
 4 A No.  
 5 Q Do you know why she no longer works  
 6 there?  
 7 A She was always late. So she was getting  
 8 written up and they let her go.  
 9 Q Did you ever have an opportunity to  
 10 observe her working?  
 11 A Yes.  
 12 Q Do you know where she worked, which bar?  
 13 A Rose Club and Champagne Bar. We usually  
 14 fluctuate between two, most people.  
 15 Q Now, are you familiar with her prior  
 16 experiences as a bartender?  
 17 A No.  
 18 Q Can you please describe -- let me  
 19 withdraw that.  
 20 You stated that you had an opportunity  
 21 to observe Ms. Remm work at the Plaza Hotel,  
 22 correct?  
 23 A Yes.  
 24 Q And you saw her -- you observed her  
 25 working as a front bartender?

Page 43

1 L. FLANAGAN  
 2 A Yes.  
 3 Q How would you describe the way she  
 4 worked?  
 5 A She was a lovely person. She was great  
 6 with guests, but she -- for me as a bartender,  
 7 she was a bit inexperienced.  
 8 Q Why do you say she was inexperienced?  
 9 A I could tell by the way she -- you know,  
 10 she left things around the bar, you know, the  
 11 way the bar -- you're supposed to put  
 12 everything in its right place for the next guy  
 13 coming in, you know, so everything can run  
 14 smoothly. She was kind of erratic where she  
 15 put stuff. She was a lovely person, but she  
 16 was just inexperienced.  
 17 Q Do you know if she had worked as a  
 18 bartender before working at the Plaza Hotel?  
 19 A She mentioned a place to me, but it  
 20 wouldn't have been a hotel or a sophisticated  
 21 bar. Maybe in a regular, you know, what we  
 22 call beer and shot joints, you know, just a  
 23 regular pub or something. I forget the name,  
 24 though.  
 25 Q You said sophisticated, what do you mean

Page 44

1 L. FLANAGAN  
 2 by that?  
 3 A You're paying twenty-two dollars for a  
 4 vodka. You know, top-end hotels where they  
 5 have their, you know, specialty cocktails,  
 6 where people want to know different drinks,  
 7 different wines, whereas if you go to a  
 8 regular bar they just want a beer and a shot.  
 9 Q How would you describe the front bars at  
 10 the Plaza Hotel in 2008?  
 11 A It was a work in progress. You know, we  
 12 were rushing to get open, the bars weren't  
 13 finished, we were still doing construction, so  
 14 it was a bit of -- bit of mayhem.  
 15 Q After the bars opened up in 2008, how  
 16 would you describe the type of bars that were  
 17 at the Plaza Hotel?  
 18 A The Rose Club would be described as a  
 19 cocktail lounge, you know, we'd have specialty  
 20 cocktails, and the Champagne Bar more or less  
 21 was supposed to be, you know, just basic wines  
 22 and champagnes.  
 23 Q Would you consider these sophisticated  
 24 bars?  
 25 A The Rose Club, yes.

Page 45

1 L. FLANAGAN  
 2 Q How about the Champagne Bar?  
 3 A Champagne Bar not so much because it's  
 4 basic. It's mostly wine and champagne and the  
 5 odd cocktail, you know.  
 6 Q Do you know Heather Buesing is?  
 7 A Yes.  
 8 Q Who is she?  
 9 A She's a bartender at the hotel.  
 10 Q Is she still working there?  
 11 A Yes. Actually she worked in the hotel  
 12 before -- prior -- before we closed down. We  
 13 had CPS 1 which was the former Edwardian Room,  
 14 it was a private concession as well, so she  
 15 worked in a bar in the hotel but not for the  
 16 hotel.  
 17 Q Was she considered the new hire in 2008?  
 18 A Yes. She started in March.  
 19 Q Can you please describe the color of her  
 20 skin?  
 21 A She's white.  
 22 Q Do you know about how old she was?  
 23 A Heather is about thirty-one, thirty-two.  
 24 Q Are you familiar with her experience  
 25 working as a bartender prior to 2008?

Page 46

1 L. FLANAGAN  
 2 A Yes. Because she would have been in  
 3 CPS 1 which would have been in the hotel.  
 4 She'd been a good bar -- she's a good  
 5 bartender.  
 6 Q But prior to 2008, she had never worked  
 7 for the Plaza --  
 8 A For the Plaza itself, no.  
 9 Q Do you know who Sean O'Toole is?  
 10 A Yes.  
 11 Q Who is Sean O'Toole?  
 12 A He's an Irish American guy.  
 13 Q How do you know him?  
 14 A He bartends with me in the hotel.  
 15 Q Does he still work there?  
 16 A Yes.  
 17 Q Do you know when he started working at  
 18 the Plaza Hotel?  
 19 A Sean came on board, I would say, it  
 20 would be later on, maybe in summer, June or  
 21 July.  
 22 Q Of what year?  
 23 A Two oh eight.  
 24 Q Do you know who color skin he has?  
 25 A He's white.

Page 47

1 L. FLANAGAN  
 2 Q About how old?  
 3 A Sean is thirty-two.  
 4 Q Do you know of his experience as a  
 5 bartender prior to working at the Plaza Hotel?  
 6 A Yeah. Sean worked in Birdland. It's a  
 7 jazz club, Broadway and 48th Street.  
 8 Q And just to be clear, he worked -- which  
 9 bars did he work at?  
 10 A Rose Club, Champagne Bar.  
 11 Q He still works at those --  
 12 A Yes.  
 13 Q Do you know who Laura Schweitzer is?  
 14 A Yes. She's currently a bartender at the  
 15 hotel. She actually worked in CPS 1 with  
 16 Heather.  
 17 Q Do you know when she started working for  
 18 the Plaza Hotel?  
 19 A If Heather was in March, probably late  
 20 April. She started as a server and then  
 21 transferred over to bartender.  
 22 Q April of what year?  
 23 A Two oh eight.  
 24 Q Do you know what color skin she has?  
 25 A White.

Page 48

1 L. FLANAGAN  
 2 Q Do you know about how old she is?  
 3 A She's thirty.  
 4 Q Are you familiar with the work -- her  
 5 work experience as a bartender prior to  
 6 working at the Plaza in April 2008?  
 7 A Yeah. She's worked in CPS 1 as a  
 8 bartender as well.  
 9 Q Do you know for how long?  
 10 A No.  
 11 Q Do you know who Miguel Aranda is?  
 12 A Yes.  
 13 Q Who is Miguel Aranda?  
 14 A Miguel Aranda was a bartender. He  
 15 didn't work there that long, actually. He  
 16 came on board I would say late summer of 2008.  
 17 Q Can you please -- can you tell us about  
 18 how old he was and --  
 19 A I would say Miguel is about  
 20 mid-thirties.  
 21 Q Do you know what color skin he has?  
 22 A Brown.  
 23 Q I'm going to show you this document I  
 24 would like to have marked as P3.  
 25 (Whereupon, a housekeeping

Page 49

1 L. FLANAGAN  
2 department weekly schedule was marked  
3 as Plaintiff's Exhibit 3 for  
4 Identification.)  
5 Q Do you recognize the document that I've  
6 just given you that's been identified for the  
7 record as P3?  
8 A I think so, yeah. I think it's a  
9 training schedule. You know, when we started  
10 training before the room open. That's what it  
11 looks like to me. Yeah.  
12 Q Do you know who Jamiya Westcott is?  
13 A Yeah. She was a new hire. She was  
14 hired as a bartender.  
15 Q Did she work as a bartender?  
16 A She ended up working in the Palm Court  
17 for a little bit.  
18 Q And you said she was hired as a  
19 bartender -- front bartender or service  
20 bartender?  
21 A Initially I believe front bartender, but  
22 she had no experience whatsoever so somebody  
23 noticed and put her in the Palm Court.  
24 Q Can you describe what she looks like?  
25 A She'd be young, twenty-four, tall,

Page 50

1 L. FLANAGAN  
2 African American, light skin, brown skin.  
3 Q Do you know who Scott Teague is?  
4 A Yes.  
5 Q Who is Scott Teague?  
6 A Scott was hired as a bartender, a new  
7 hire, for the Champagne Bar, Rose Club.  
8 Q Do you know -- when you say he's a new  
9 hire, what do you mean -- in 2008?  
10 A Yes. He would come in as -- in February  
11 as well, 2008.  
12 Q Do you know in what capacity he was  
13 hired to work in?  
14 A Bartender.  
15 Q Front bartender?  
16 A Front bartender.  
17 Q But do you know about how old Mr. Teague  
18 is?  
19 A I believe twenty-four, twenty-five.  
20 Q Do you know what color skin he has?  
21 A White.  
22 Q Did you ever learn what, if any,  
23 experience Mr. Teague had as a bartender prior  
24 to working at the Plaza in 2008?  
25 A No. I know he told me -- because he

Page 51

1 L. FLANAGAN  
2 came with Anthony Evangelista as well, and he  
3 was an assistant manager at Gin Lane, so I  
4 don't know if he bartended or not, but he just  
5 told me he was a manager there.  
6 Q Did you ever have an opportunity to  
7 observe him work?  
8 A Yes.  
9 Q How would you describe -- let me  
10 withdraw that.  
11 How would you characterize the way he  
12 worked?  
13 A He was okay. You know, he could  
14 bartend, but he needed a bit more experience.  
15 Q So he didn't have --  
16 A He wouldn't have had the experience that  
17 the other guys had behind the bar.  
18 Q Why do you say that he had limited  
19 experience?  
20 A Well, at the Champagne Bar it's okay  
21 because it's fairly straight forward, but say,  
22 in the Rose Club when you're busy, you know,  
23 he got a little flustered, you know, he wasn't  
24 used to the heavy flowing, you know.  
25 Q Do you know if Mr. Teague still works at

Page 52

1 L. FLANAGAN  
2 the Plaza Hotel?  
3 A No.  
4 Q Do you know why he no longer works  
5 there?  
6 A He got fired.  
7 Q Do you know why he got fired?  
8 A He give -- some guy who's a chef with  
9 him before, he give him a drink on the house  
10 and the manager observed it.  
11 Q Is there a policy against -- let me  
12 withdraw that.  
13 Is there a policy regarding giving free  
14 drinks at the Plaza Hotel that was in effect  
15 after 2008?  
16 A Yes. What you could do is you could say  
17 to the manager, listen, this is a regular  
18 customer, I would like to buy him a drink on  
19 the house, but you have to get permission  
20 first -- or if the manager isn't there, you  
21 tell him, you know, later.  
22 Q Do you know who Eric Smades is?  
23 A Yes. He was a new hire as well. He  
24 came in, in February to front bartender.  
25 Q Can you tell us about how old he was?

Page 53

1 L. FLANAGAN  
 2 A He would be early thirties.  
 3 Q Do you know what color skin he had?  
 4 A He was white.  
 5 Q Were you -- did you ever come to learn  
 6 what his experience was working as a bartender  
 7 prior to working at the Plaza in 2008?  
 8 A Yes. He -- he worked at some good spots  
 9 in the city, actually. He was a good  
 10 bartender. Because he worked -- the chef at  
 11 the time, Didier Viot, he worked with him in  
 12 one of his restaurants, so he brought him up  
 13 to the hotel.  
 14 Q Do you know if Mr. Smades still works at  
 15 the Plaza Hotel?  
 16 A No.  
 17 Q Do you know why he no longer works  
 18 there?  
 19 A Yes. Yeah. One night we had an  
 20 incident where somebody -- you know, we were  
 21 kind of running the Rose Club as a nightclub.  
 22 When you do that, you kind of keep the drinks  
 23 basic, you don't make fancy cocktails because  
 24 there's too many people, and somebody asked  
 25 for a mojito and he refused to make it because

Page 54

1 L. FLANAGAN  
 2 he was too busy, and he had an altercation  
 3 with the manager and he had an altercation  
 4 with him before so the next day they brought  
 5 him to human resources and they fired him.  
 6 Q When you say altercation, what do you  
 7 mean?  
 8 A Verbal argument.  
 9 Q Okay. I'm going to go back a little.  
 10 Robert Kenyon, what color hair did he have?  
 11 A I would say black.  
 12 Q Do you know what color eyes he had?  
 13 A No.  
 14 Q How about Prather Remm, do you know what  
 15 color hair she had?  
 16 A She had blond, blue eyes. Scandinavian,  
 17 I suppose.  
 18 Q How about Heather Buesing?  
 19 A Yeah. She was the same, she was blond  
 20 and blue eyes as well. She's Norwegian  
 21 descent.  
 22 Q Sean O'Toole?  
 23 A He had brown hair.  
 24 Q Do you know what color eyes by any  
 25 chance?

Page 55

1 L. FLANAGAN  
 2 A No.  
 3 Q Laura Schweitzer?  
 4 A She had brown eyes, brown hair.  
 5 MR. McLANE: I'm detecting a  
 6 pattern here.  
 7 THE WITNESS: I was going to  
 8 say.  
 9 MR. McLANE: You know the eyes  
 10 of the females but none of the males.  
 11 Q How about Miguel Aranda?  
 12 A Brown hair.  
 13 Q Scott Teague?  
 14 A He had brown hair too.  
 15 Q I'm going to assume you don't know what  
 16 color his eyes are. Eric Smades?  
 17 A Brown hair as well.  
 18 (Whereupon, an off-the-record  
 19 discussion was held.)  
 20 (Whereupon, a short break was  
 21 taken.)  
 22 (Whereupon, a portion of the  
 23 testimony was read back.)  
 24 Q Laura Schweitzer, do you know if her  
 25 name changed?

Page 56

1 L. FLANAGAN  
 2 A Yes. She got married. It's Royer now.  
 3 Q I'm going to show you this document that  
 4 I would like to have marked for identification  
 5 as P4. Please review that document.  
 6 (Whereupon, the Plaza bartender  
 7 seniority list was marked as  
 8 Plaintiff's Exhibit 4 for  
 9 Identification.)  
 10 Q Do you recognize the document that I've  
 11 just given you that's been marked for  
 12 identification as P4?  
 13 A Yes.  
 14 Q What do you recognize this document to  
 15 be?  
 16 A It's a seniority bartender list.  
 17 Q How do you recognize it?  
 18 A By the names and the dates on it.  
 19 Q Does this document appear to be accurate  
 20 as far as you know?  
 21 A Yes. Well, I mean -- I mean, it's minor  
 22 but Sean would be senior to Laura because  
 23 Laura's -- that's her hire date, but she was  
 24 hired as a server not a bartender, so I mean,  
 25 Sean would be senior to her because it goes by



Page 57

1 L. FLANAGAN  
 2 position.  
 3 Q Seniority goes by position?  
 4 A Yeah. Like if you're a bartender -- you  
 5 know, it doesn't go by how long you were in  
 6 the business. I mean, you could be, like, a  
 7 bar-back for ten years and then become a  
 8 bartender, but a guy who's there two years  
 9 and, you know, is a bartender, if he's a  
 10 bartender before you he has seniority.  
 11 Q Do you know who Kenny Okatami is?  
 12 A Who?  
 13 Q Kenny Okatami?  
 14 A No.  
 15 Q Do you know who David Jones is?  
 16 A Yes. He would have been assistant human  
 17 resources director.  
 18 Q When?  
 19 A He would been there in the old Plaza,  
 20 back in 2005.  
 21 MR. McLANE: I'm sorry, what was  
 22 the name?  
 23 THE WITNESS: David Jones.  
 24 Q I'm going to show you this document that  
 25 I would like have marked for identification as

Page 58

1 L. FLANAGAN  
 2 P5 (handing).  
 3 (Whereupon, a packet of  
 4 documents was marked as Plaintiff's  
 5 Exhibit 5 for Identification.)  
 6 Q Do you recognize that document --  
 7 A Yes.  
 8 Q -- that I've just given you?  
 9 A Yeah.  
 10 Q What do you recognize this document to  
 11 be?  
 12 A It's arbitration case for Carlos and  
 13 Evelio about the seniority rights.  
 14 Q How do you recognize it?  
 15 A I've read it before, and I was actually  
 16 at the arbitration case.  
 17 Q You testified?  
 18 A Yes.  
 19 Q What did you testify to at the  
 20 arbitration?  
 21 A Just to confirm that Carlos and Evelio  
 22 were front bartenders in the hotel.  
 23 Q In 2005, where were the work schedules  
 24 posted?  
 25 A They would be posted in the room service

Page 59

1 L. FLANAGAN  
 2 bar. That was kind of like the engine room  
 3 for the bartenders in the hotel, you know, you  
 4 pass by there every day, look at the  
 5 schedule --  
 6 Q Where would it be physically?  
 7 A Physically it would be in the basement  
 8 of the hotel in the old kitchen.  
 9 Q On a wall --  
 10 A On a wall, yeah. Inside a glass case.  
 11 Q I'm going to show you what's already  
 12 been identified as P1 (handing). Is that the  
 13 kind of schedule you're referring to?  
 14 A Yes.  
 15 Q Thank you.  
 16 A (Handing).  
 17 Q Now, prior to testifying at the  
 18 arbitration -- at the arbitration in  
 19 connection with P3, had you ever discussed  
 20 with Carlos Rivera why he filed the grievance?  
 21 A Yes. Numerous occasions.  
 22 Q What did he tell you?  
 23 A Basically what happened was after my  
 24 situation --  
 25 Q When you say your situation, what do you

Page 60

1 L. FLANAGAN  
 2 mean?  
 3 A When they put me in the Palm Court and I  
 4 went to human resources to rectify it, then  
 5 Carlos and Evelio the following week did the  
 6 same procedure -- went down and told them the  
 7 same story exactly, and they came back to them  
 8 and said, no, you're service bartenders.  
 9 Q What did -- did Carlos ever express to  
 10 you any -- let me withdraw that.  
 11 You stated that you had discussed with  
 12 Mr. Rivera the grievance that was filed,  
 13 right -- correct?  
 14 A Correct.  
 15 Q What did you discuss?  
 16 A We discussed, you know, why his -- you  
 17 know why the situation was the way it was. He  
 18 had seniority rights, he was a front  
 19 bartender, and he deserved -- you know,  
 20 working in the hotel so many years deserved to  
 21 be in the front bar position.  
 22 Q Did you ever discuss with any  
 23 supervisors Carlos's situation?  
 24 A Yes. I mentioned it to Anthony  
 25 Evangelista, Carlos Buena, human resources